

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

In re	§	
	§	
THE GATEWAY VENTURES, LLC,	§	Case No. 21-30071-hcm
	§	Chapter 11
Debtor.	§	

WESTAR INVESTORS GROUP, LLC,	§	
SUHAIL BAWA, AND SALEEM MAKANI,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	
	§	Adversary No. _____
THE GATEWAY VENTURES, LLC,	§	
PDG PRESTIGE, INC., MICHAEL	§	
DIXSON, SURESH KUMAR,	§	
AND BANKIM BHATT,	§	
	§	
Defendants.	§	

BANKIM BHATT'S NOTICE OF REMOVAL

TO THE HONORABLE H. CHRISTOPHER MOTT, UNITED STATES BANKRUPTCY JUDGE

COMES NOW Bankim Bhatt and files this his Notice of Removal and would respectfully show the Court as follows:

1. Pursuant to Local Rule 9027(b)(1), this Notice of Removal is being filed with the Clerk of the Bankruptcy Court as removal is pursuant to 28 U.S.C. § 1452(a).
2. This Notice of Removal is timely filed within 90 days from the order for relief issued in the main bankruptcy proceeding. R. 9027(a)(2).
3. This Court has jurisdiction pursuant to 28 U.S.C. § 1334(b), (e)(1) as the state court case is arising under title 11 or arising in or related to cases under title 11 and involves claims against the property of the Debtor.

4. The case being removed is styled *Westar Investors Group, LLC, Suhail Bawa, and Saleem Makani v. The Gateway Ventures, LLC, PDG Prestige, Inc., Michael Dixon, Suresh Kumar, and Bankim Bhatt*, Case No. 2020DCV0914 pending in the County Court at Law No. 6 in El Paso County, Texas (the “state-court action”).
5. The state-court action arises from events circa 2018-20 in regard to the proposed development and sale of certain parcels of commercial real estate in El Paso County Texas for use as nationally known hotels (e.g. Marriott Element) to be operated under franchise agreements by some of the parties. *See copy of Plaintiff’s First Amended Petition in the Appendix to this Notice, at Tab 28. (“the Amended Petition”)*. Plaintiffs Bawa and Makani allegedly paid funds to the Debtor and related entities to secure an interest in one of the sites, subject to a land sale contract circa December 2018 involving the Debtor, and Westar LLC an entity in which Plaintiffs allege they were members. *Id.* In early April of 2019 the land sale contract was amended to include a closing date of July 2, 2019. *Id.* The Plaintiffs allege that Debtor and its related entities “failed to close on the Element Hotel parcel” and thereafter a dispute arose among Plaintiffs, Kumar and the Debtor or its related entities about the sufficiency of funding received by the Debtor in consideration for the land sale agreement. *Id.* That dispute persisted well into 2020 and on March 10, 2020 Plaintiffs filed their Original Petition (see Appendix at Tab 1) in the state-court action. Subsequently, all defendants appeared in that action, filing various responsive pleadings.
6. Plaintiffs (i.e., Westar Investors Group, LLC, Suhail Bawa, and Saleem Makani) in the state-court lawsuit have asserted causes of action against Debtor, The Gateway Ventures, LLC, for (1) breach of contract, (2) money had and received/unjust enrichment, (3) declaratory relief as to the rights and responsibilities of the parties under the contract at

issue in the state-court lawsuit, and (4) civil conspiracy. Plaintiffs also seek attorney's fees and exemplary damages. *See the Amended Petition in the Appendix to this Notice, at Tab 28.* Those same causes of action are also asserted against two entities related to the Debtor, i.e. PDG Prestidge and Michael Dixon. *Id.*

7. In addition to damages for their breach of contract claim against the Debtor, Plaintiffs have asserted an alternate claim for "specific performance" requiring Gateway Ventures to close on the sale of the Element Hotel Parcel and transfer the property to Plaintiffs. *See Id.*
8. Apart from their contract claim against Debtor, Plaintiff's state-court action also names two other individuals, i.e., Suresh Kumar (allegedly a fellow-member of the Westar LLC), Dr. Bankim Bhatt. They allege various and different causes of action against Kumar and Bhatt, and include both of them in their allegations of civil conspiracy. *See Amended Petition in the Appendix to this Notice, at Tab 28.* The causes of action alleged against Kumar and Bhatt, as well as those raised against the entities related to the Debtor, generally arise from a common nucleus of operative facts pertaining to the primary disputes between Plaintiff and Debtor, which involves property of the estate. *Id.*
9. Suresh Kumar has filed a Crossclaim against the Debtor, Gateway Ventures, and its related entities PDG Prestige and Michael Dixon and a Counterclaim against Suhail Bawa and Saleem Makani.
10. The Crossclaim alleges cause of action for money had and received/unjust enrichment, statutory fraud, breach of fiduciary duty, claims under the Texas Theft Liability Act, declaratory relief, and claims for attorney's fees and exemplary damages against the Debtor – Gateway Ventures, PDG Prestige, and Michael Dixon. The amount sought under the

Crossclaim (\$1,087,750.00) is the same amount Suresh Kumar has claimed in his Proof of Claim. *See* Claim No. 2.

11. The Debtor filed its Notice of Bankruptcy on or around February 2, 2021 which effected a stay of the state-court action. The stay occurred after the parties had exchanged some written discovery but before any depositions were taken, including the depositions of Plaintiffs, all three of which had been previously noticed by Dr. Bhatt's counsel and that the state court judged then ordered to take place.
12. Bhatt asserts the claims under state court action are core proceedings under 28 U.S.C. 157(b)(2)(A)(B) and (O) as the action will affect the administration of the estate, involves claims filed against the bankruptcy estate and will affect the liquidation of assets or the adjustment of the debtor-creditor holder relationship as the claims involve property of the estate. Plaintiffs seek to require that the Debtor close on the property at issue in the lawsuit and then turn the property over. Additionally, Plaintiffs are claiming over \$1,000,000.00 in damages and the Crossclaim also claims damages in excess of \$1,000,000.00 which will need to be determined to identify the plausibility of a plan being confirmed and complied with. Additionally, Plaintiffs in the state court action filed a Notice of Lis Pendens in the Real Property Records of El Paso County, Texas at Document No. 20200074547 asserting an interest in the property located at 6767 Gateway Blvd., El Paso, Texas, which is property of the estate. The claims against the real estate will affect the administration of the estate and must be resolved for a proper administration of the estate.
13. While the claims against the non-debtor entities would be non-core standing alone, due to the intertwining of the facts and the claims being centered around the same nucleus of facts, the Court should adjudicate all the claims together as core proceedings in addition to the

judicial efficiency that would be effected. At least one court within the Fifth Circuit has found state law claims to be core where they are “inextricably intertwined with the bankruptcy proceeding.” *Regal Row Fina, Inc. v. Washington Mutual Bank*, 2004 WL 2826817, at *7, 2004 U.S. Dist. LEXIS 26704, at *25 (N.D.Tex. Dec. 9, 2004).

14. To the extent the Court finds that the proceedings are non-core, the Court has jurisdiction under 28 U.S.C. 157(c)(1).
15. Bankim Bhatt as the party seeking removal of the action hereby consents to the entry of final orders or judgment by the Bankruptcy Court.
16. Pursuant to Local Rule 9027(b)(2), a copy of the docket sheet and all pleadings, orders and writs is attached hereto.
17. A Notice of Removal is being filed with El Paso County District Clerk concurrently with this Notice of Removal.
18. A copy of this Notice of Removal is being served on all other parties to the removed cause action.

Respectfully submitted,

**RAY | PENA | McCHRISTIAN,
P.C.**

5822 Cromo Dr.

El Paso, Texas 79922

(817) 832 7200- Phone

(817) 832-7333- Fax

jray@raylaw.com

jlucky@raylaw.com

alopez@raylaw.com

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/s/ Aldo Lopez

ALDO R. LOPEZ

State Bar No. 24060185

Attorneys for Bankim Bhatt

JEFF RAY

State Bar No. 16604400

JEFFREY THOMAS LUCKY

State Bar No. 12667350

CERTIFICATE OF SERVICE

On May 3, 2021, a true and correct copy of the foregoing was served upon all parties listed on the Court's ECF Noticing System via the Noticing System:

/s/ Aldo Lopez

Aldo R. Lopez